

OFFICE ACTION

Election of Species

1. This application contains claims directed to the following patentably distinct species:

Species I. Figure 1

Species II. Figure 3

Species III. Figure 4

The species are independent or distinct because the claims to the different species recite the mutually exclusive characteristics of such species, such as use of a robot, use where a healthy body part is adapted to provide input, and use of a unit to compile sensory information to provide input. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, or a single grouping of patentably indistinct species, for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims is deemed generic.

There is a search and/or examination burden for the patentably distinct species as set forth above because the species or groupings of patentably indistinct species have acquired a separate status in the art due to their recognized divergent subject matter.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or a grouping of patentably indistinct species to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected species or grouping of patentably indistinct species,

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including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species or grouping of patentably indistinct species.

Should applicant traverse on the ground that the species, or groupings of patentably indistinct species from which election is required, are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing them to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

A telephone call was made to Mr. Jason Rosenblum on 3/10/11 to request an oral election to the above restriction requirement, but did not result in an election being made. Mr. Rosenblum requested the election be written and mailed.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANCES OROPEZA whose telephone number is (571) 272-4953. The examiner can normally be reached on Monday and Tuesday from 9 AM to 7 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Layno, can be reached on (571) 272-4953. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/FRANCES OROPEZA/
Examiner, Art Unit 3766
March 11, 2011

/Carl H. Layno/
Supervisory Patent Examiner, Art Unit 3766